

141.438 Endow Kentucky tax credit.

- (1) For taxable years beginning on or after January 1, 2011, there is hereby established the Endow Kentucky tax credit.
- (2) A taxpayer providing an endowment gift to a permanent endowment fund of a qualified community foundation, or county-specific component fund, or affiliate community foundation, which has been certified under KRS 147A.325, and meeting the requirements of subsection (7) of this section, may claim a credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401. The ordering of the credit shall be as provided in KRS 141.0205.
- (3) The credit shall be equal to twenty percent (20%) of the value of the endowment gift provided by the taxpayer, not to exceed ten thousand dollars (\$10,000).
- (4) The credit shall be nonrefundable, but any amount of credit that a taxpayer is not able to utilize during a particular taxable year may be carried forward for use in a subsequent taxable year, for a period not to exceed five (5) years.
- (5) No tax credit claimed under this section may be sold or transferred. If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the amount of approved credit shall be applied against the tax imposed by KRS 141.0401 at the entity level, and shall also be distributed to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of the income of the pass-through entity.
- (6) The total amount of tax credit that may be awarded under this section shall be limited to five hundred thousand dollars (\$500,000) in each fiscal year.
- (7) A taxpayer pursuing a tax credit under this section shall:
 - (a) File an application for preliminary authorization of the tax credit with the department;
 - (b) After receiving preliminary authorization from the department, provide an endowment gift to a qualified community foundation, county-specific component fund, or affiliate community foundation which has been certified under KRS 147A.325 within thirty (30) days of the date of the notice of authorization for the tax credit from the department; and
 - (c) Within ten (10) days of making the gift, report to the department proof of the endowment gift.
- (8)
 - (a) The department shall:
 1. Create the application required to be filed by the taxpayer seeking preliminary approval for the tax credit; and
 2. Publish on its Web site the amount of total credit allocated to date, the date the last processed application for preliminary approval was received, and the remaining credit available.
 - (b)
 1. Upon receipt of an application for preliminary approval submitted under subsection (7) of this section, the department shall review the application and, if approved, the department shall issue a notice of preliminary approval to the requesting taxpayer.

2. The notice of preliminary approval shall include the amount of credit, shall notify the taxpayer that the proposed gift must be made within thirty (30) days of the date reflected on the notice of authorization, and that the taxpayer must notify the department that the gift has been made, in the form and format determined by the department, within ten (10) days of making the gift.
 3. Upon preliminary approval of an application for credit, the department shall reduce the outstanding available credit cap amount to reflect the preliminary approved credit.
- (c) Upon timely receipt of notification from a taxpayer preliminarily approved for a credit that the investment has been timely made, the department shall verify the information provided and, if the information is accurate, the department shall issue a final tax credit letter to the taxpayer.
- (d) If a taxpayer fails to make the required investment or provide proof of the investment to the department within the time frames established by this subsection and subsection (7) of this section, the department shall void the preliminary approval and shall restore the allocated amounts to the tax credit cap.

Effective: June 4, 2010

History: Created 2010 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 14, effective June 4, 2010.